February 19, 2025

VIA ECF
Honorable Victor Marrero
United States District Judge
Southern District of New York
500 Pearl Street, Suite 1610
New York, NY 10007

Re: *United States of America v. Global Business Travel Group, Inc., et al.*,
No. 1:25-cv-00215-(VM)

Dear Judge Marrero:

Defendants Global Business Travel Group, Inc. ("Amex GBT"), and CWT Holdings, LLC ("CWT"), respectfully submit this joint letter in support of their positions on the disputed issue outlined in the Parties' joint motion for entry of the Proposed Case Management Plan and Scheduling Order ("CMO") (ECF No. 52) related to deposition time limits for cross-noticed depositions of non-parties on one side's witness list (*see* Paragraph 7.H.).

Defendants are available at the Court's convenience to appear for a status hearing to discuss the proposed CMO as well as to answer any questions the Court may have about the Parties' respective positions.

Paragraph 7.H.: Deposition time limits for cross-noticed depositions of non-parties on one side's witness list

Defendants object to Plaintiff's position that if both sides cross-notice a deposition of a non-party that is listed on one side's witness list, the deposition time should be allocated evenly between the sides. By way of background, in order to limit the burden on non-parties, both sides agree that non-party depositions should be limited to a total of 7 hours of on-the-record time, even if cross-noticed. But where only one side has listed that non-party on its witness list, Defendants submit that the opposing side should be entitled to 5 hours of deposition time, with the other side—the side that listed that non-party witness on its witness list—being entitled to 2 hours of deposition time.

Defendants' proposal is one of basic fairness. If a third-party witness is listed only on one side's witness list, presumably that side has a reasonable expectation of the scope of the witness' testimony as well as the factual bases underlying it, and that the testimony will be helpful to that side's case. Conversely, the opponent should have relatively more time to inquire into the facts the witness possesses and the bases for the testimony, as well as to conduct cross-examination of that witness in the style of a trial deposition. Plaintiff's position is especially unfair to Defendants considering Plaintiff already has a mountain of discovery from its eight-month merger investigation to aid in the preparation of its case, whereas Defendants do not, putting Plaintiff in a far more advantageous position than Defendants in terms of assessing potential non-party testimony. Plaintiff may argue that Defendants have business relationships with the third parties that Plaintiff intends to include on its witness list, and that this militates in

favor of Plaintiff's proposed split. But the mere existence of a business relationship does not imply that Defendants' customers are necessarily "friendly" witnesses for Defendants here—and, of course, that argument would not apply in any event for third parties with whom Defendants do not have a business relationship. Plaintiff's position is also rife for potential gamesmanship, and incentivizes Plaintiff to cross-notice for deposition any non-party on its own witness list to automatically limit the amount of deposition time Defendants have to question that non-party witness. The Court should not permit such gamesmanship and should adopt Defendants' proposal.

Respectfully submitted,

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